

DEPARTMENT OF PLANNING  
STAFF REPORT

## PLANNING COMMISSION PUBLIC HEARING

**DATE OF HEARING: March 19, 2009**

**SPEX 2008-0042, SPEX 2008-0067 & ZMOD 2008-0015 – The Compass School**

**DECISION DEADLINE: May 11, 2009**

**ELECTION DISTRICT: Broad Run**

**PROJECT PLANNER: Stephen Gardner**

### EXECUTIVE SUMMARY

Childcare Holdings of Ashburn, L.L.C. of Glen Allen, Virginia has submitted an application for a special exception to amend SPEX 2005-0005, Busy Kids Learning Center, Ashbrook, in order to modify the approved site layout, including building footprint, parking layout, and play area, and increase the building size from the approved 9,960 square feet to the proposed 13,168 square feet of a proposed child care center in the PD-IP (Planned Development–Industrial Park) zoning district. The property is also located within the AI (Airport Impact) Overlay District, outside of but within one (1) mile of the Ldn 60 aircraft noise contour. This application is subject to the Revised 1993 Zoning Ordinance and the child care center use is listed as a Special Exception use under Section 4-504(R) and is subject to the Additional Regulations set forth in Section 5-609(B). The modification of Additional Regulations is authorized by minor special exception under Section 5-600, pursuant to which the Applicant also requests modification of Section 5-609(B)(2)(b) to eliminate the requirement for additional designated drop-off and delivery parking spaces. The modification of zoning regulations applicable to an approved concept development plan is authorized by special exception under Section 6-1511(B)(4), pursuant to which the Applicant further requests modifications of: (1) Section 4-505(B)(2), Yards, to permit the reduction of the required 75 foot yard for buildings to 29 feet and 60 foot yard for parking to 15 feet adjacent to a residential district; and (2) Section 5-1414(B), Buffer Yard, to permit the reduction of the minimum 20 foot Type 2 side yard buffer to a 15-foot Type 2 side yard buffer. The property is approximately 2.19 acres in size and is located on the south side of Russell Branch Parkway (Route 1061) and east of Navajo Drive in the Broad Run Election District. The area is governed by the policies of the Revised General Plan (Suburban Policy Area (Ashburn Community)) and the Countywide Transportation Plan, which designate this area for Business uses at densities of 0.40 to 1.0 Floor Area Ratios (FAR).

### RECOMMENDATION

Staff does not support these applications. At this time, staff recommends the application be referred to Committee for discussion. Outstanding issues include compatibility of the use to adjoining single-family homes, commitments to enhanced landscaping, and the impacts of the building's placement on an existing wetland area. Should the application be considered further, staff recommends the following: 1) A reduction in the size of the building; 2) Increasing the distance of the building from the eastern boundary line; and 3) A corresponding reduction in the scope of the modifications.

## **SUGGESTED MOTIONS**

1. I move that the Planning Commission forward SPEX 2008-0041, SPEX 2008-0067 & ZMOD 2008-0015, The Compass School, to a Committee of the Whole meeting for further discussion.  
OR,
2. I move that the Planning Commission forward SPEX 2008-0041, SPEX 2008-0067 & ZMOD 2008-0015, The Compass School, to the Board of Supervisors with a recommendation of denial, based on the Findings included in the March 19, 2009 Staff Report.  
OR,
3. I move that the Planning Commission forward SPEX 2008-0041, SPEX 2008-0067 & ZMOD 2008-0015, The Compass School, to the Board of Supervisors with a recommendation of approval.

### VICINITY MAP



**Directions:**

From Leesburg, take Route 7 east to Ashburn Village Boulevard. Follow Ashburn Village Boulevard south to Russell Branch Parkway. Turn left onto Russell Branch Parkway. The subject property will be on the right at the intersection of Navajo Drive.

## TABLE OF CONTENTS

<b>I.</b>	<b>Application Information .....</b>	<b>5</b>
<b>II.</b>	<b>Summary of Discussion.....</b>	<b>6</b>
<b>III.</b>	<b>Findings for Denial .....</b>	<b>8</b>
<b>IV.</b>	<b>Conditions of Approval.....</b>	<b>8</b>
<b>V.</b>	<b>Project Review .....</b>	<b>10</b>
<b>A.</b>	<b>Context .....</b>	<b>10</b>
<b>B.</b>	<b>Summary of Outstanding Issues.....</b>	<b>12</b>
<b>C.</b>	<b>Overall Analysis .....</b>	<b>13</b>
<b>D.</b>	<b>Zoning Ordinance Modifications .....</b>	<b>16</b>
<b>E.</b>	<b>Zoning Ordinance Criteria for Approval .....</b>	<b>20</b>
<b>VI.</b>	<b>Attachments.....</b>	<b>24</b>



## I. APPLICATION INFORMATION

### APPLICANT

Childcare Holdings of Ashburn LLC  
Attn: Lynne Geisz  
5040 Sadler Place, Suite 200  
Glen Allen, VA 23060

### REPRESENTATIVE

Cooley Godward Kronish LLP  
Attn: Colleen Gillis Snow, Attorney  
11951 Freedom Drive  
Reston, VA 20190-5601  
703-456-8114

### APPLICANT'S REQUEST

A Special Exception to amend the footprint of the child care center approved in SPEX 2005-0005. A Minor Special Exception to modify the performance standards of Section 5-609(B)(2)(b) related to drop-off and delivery parking spaces. Zoning Ordinance Modifications to reduce the side yard setback and to reduce the width of the Type 2 side yard buffer. This application was accepted on August 15, 2008.

### LOCATION

Southeast quadrant of Navajo Drive & Russell Branch Parkway

### TAX MAP/PARCEL #s

Tax Map /62/L/1/////3/      MCPI 084-30-9250

### ZONING

PD-IP

### ACREAGE OF SITE

2.19 acres

### SURROUNDING ZONING / LAND USES

	<b>ZONING</b>	<b>PRESENT LAND USES</b>
North	PD-CC-CC	Retail / Shopping Center
South	PD-H6	Single-Family Residential
East	PD-H6	Single-Family Residential
West	PD-H6	Single-Family Residential

## II. SUMMARY OF DISCUSSION

Topic	Issues Examined and Status
	Staff reviewed the application against the following policy: <i>Revised General Plan and Countywide Retail Policy Plan Amendment (CPAM 1996-0001)</i> .
Comprehensive Plan	<ul style="list-style-type: none"> <li>• Provide a detailed inventory of uses, including retail and services, within proximity of the site to demonstrate how the child care center will serve the Business Community. (<i>Revised General Plan, Chapter 6. Land Use Pattern and Design Policies. Policy 8.</i>) Status: Resolved; the child care center, a service use, is consistent with the type of commercial service and retail uses anticipated for Business Community and compliments existing retail uses.</li> <li>• Commit to a building placement and design that includes a variation of materials and building articulation, architectural details, usable outdoor spaces, distinctive roof forms, etc. (<i>Countywide Retail Policy Plan Amendment, Section VI. Design Guidelines. A. "Building Placement and Design." Policy 6, 7, and 9.</i>) Status: Resolved. A Condition of Approval requiring substantial conformance to the front building elevation, submitted as Sheet 4 of the Special Exception Plat, has been included.</li> <li>• Ensure that the off-site wetlands area is not impacted by the placement of the building in relation to the property line, the setback of which has been significantly reduced by proposed modifications. (<i>Revised General Plan, Chapter 5. Green Infrastructure Policies. Policy 2.</i>) Status: <b>Unresolved; the footprint and placement of the building has been amended from that approved as part of the Busy Kids Learning Center application to reduce the distance from the wetland area; placement of the building necessitates a retaining wall near the wetlands. This may increase water flow through the drainage channel, negatively impacting the wetland. The Type 2 Buffer will coincide and conflict with the wetland preservation area.</b></li> <li>• Commit to landscaping and buffering along the property lines to justify the reduction in setbacks and to soften the visual impact to nearby single-family residences. (<i>Countywide Retail Policy Plan Amendment, Section VI. Design Guidelines. C. Landscaping and Buffering. Policy 5.</i>) Status: <b>Unresolved; plantings depicted on a "conceptual landscaping plan" show few enhancements above that required by the Revised 1993 Ordinance. The western property line is enhanced, but the Special Exception Plat fails to show such.</b></li> <li>• Commit to Low Impact Design (LID) features including the use of permeable pavers and/or porous concrete. (<i>Revised General Plan. Chapter 5. Surface Water Policies. Policy 2.</i>) Status: <b>Unresolved; though the Applicant has stated in their response that forty-four (44) of the required parking spaces will include permeable pavers, the Special Exception plat only depicts thirty-nine (39) spaces using such materials. This discrepancy should be rectified.</b></li> <li>• Construct pedestrian connections to the existing sidewalk along Navajo Drive, including on both sides of the entrance drive. (<i>Countywide Retail Policy Plan Amendment, Section IV. Service Area Based Retail Policies. A. General Policies. Policy 3.</i>) Status: <b>Unresolved; sidewalks are only noted on one side of Navajo Drive.</b></li> </ul>

SPEX 2008-0042, SPEX 2008-0067 & ZMOD 2008-0015  
The Compass School  
PLANNING COMMISSION PUBLIC HEARING  
March 19, 2009

Zoning	<ul style="list-style-type: none"> <li>• A modification of Section 4-505(B)(2) is not justified to reduce the building setback from seventy-five (75) feet to twenty-nine (29) feet and the parking setback from sixty (60) feet to fifteen (15) feet. (<i>Revised General Plan, Chapter 6. General Business Land Use Policies. Policy 5.</i>) Status: <b>Unresolved; may result in a larger building than could be accommodated; the negative impacts of building size on surrounding communities should be mitigated by landscaping and/or screening.</b></li> <li>• A modification of Section 5-1414(B) is not justified to reduce a portion of the twenty (20) foot Type 2 side yard buffer to fifteen (15) feet. (<i>Revised General Plan, Chapter 6. General Business Land Use Policies. Policy 3.b.</i>) Status: <b>Unresolved; parking areas in close proximity to single-family homes should be mitigated by landscaping and/or screening.</b></li> </ul>
Emergency Services	<ul style="list-style-type: none"> <li>• Consistency with proffer guidelines which anticipate a contribution of \$.10 per square foot of development. (<i>Resolution of Board Position Regarding Annual Fire and Rescue Contributions by Owners/Homeowners Associations. Adopted June 18, 2001</i>). Status: Resolved; the Application has submitted documentation detailing agreement to the fire and rescue contribution.</li> </ul>
Loudoun Water	<ul style="list-style-type: none"> <li>• Development in the Suburban Policy Area shall be served by central utilities. (<i>Revised General Plan. Chapter 2. Infrastructure. Wastewater and Water Treatment. Wastewater Approach Table.</i>)</li> </ul>
Environmental Review	<ul style="list-style-type: none"> <li>• A recommendation that the Applicant reduce the size of the building to minimize impacts to an existing on and off-site wetland area. Status: <b>Unresolved; modifications to both the building and parking setbacks allow the structure to be located in close proximity to existing wetlands. Required buffers will conflict with a wetland preservation area.</b></li> <li>• No net loss of wetlands in the County. (<i>Revised General Plan. Chapter 5. River and Stream Corridor Resources Policies. Policy 23.</i>) Status: <b>Unresolved; a wetlands permit has been issued for this site for a mitigation bank located in Prince William County.</b></li> </ul>
VDOT	<ul style="list-style-type: none"> <li>• Frontage improvements to include the widening of Navajo Drive to forty-feet (40'), provisions for a five-foot (5') sidewalk, and curb ramps. Status: Resolved; a cross section on the Special Exception Plat details a forty-foot (40') roadway segment, a five-foot (5') sidewalk, and curb ramps.</li> <li>• Projected traffic volume may warrant right and left turning lanes at the intersection of Navajo Drive and Russell Branch Parkway. Status: Resolved; Traffic volumes do not warrant right/left turns and would be inappropriate on a local access roadway.</li> <li>• Adequate queuing during AM peak hours should be maintained. Status: Resolved; documentation detailing the distance between the site entrance and Russell Branch Parkway is adequate to ensure adequate queuing has been submitted.</li> </ul>
Transportation (OTS)	<ul style="list-style-type: none"> <li>• The location of the site entrance for this application should be the same as that approved with SPEX 2005-0005, Busy Kids Learning Center. Status: Resolved; the Special Exception Plat depicts an entrance consistent with that included as part of the previous approval.</li> </ul>

### III. FINDINGS FOR DENIAL

1. Modifications of the Revised 1993 Zoning Ordinance to reduce building and parking setback and landscape buffer width are not justified and would result in a substantially larger building than would otherwise be accommodated on the site.
2. Modifications of the Revised 1993 Zoning Ordinance to reduce building and parking setback and landscape buffer width deviate from the standards established by the Ordinance to ensure compatibility regarding building size, mass, and placement with differing land uses (i.e. commercial adjacent to single-family residential).
3. Landscaping commitments which do not exceed that required by the Revised 1993 Zoning Ordinance and, consequently, do not justify modifications to reduce building and parking setback and landscape buffer width are inconsistent with the Countywide Retail Policy Plan Amendment which states, "Residential areas should be buffered from adjacent retail uses by trees, fences, and hedges."

### IV. CONDITIONS OF APPROVAL – March 5, 2009

Should the application be considered further, staff recommends the following conditions of approval:

1. **Substantial Conformance** – This Special Exception to permit development a child care center shall be developed in substantial conformance with Sheets 1 of 4 and 2 of 4 (the "Special Exception Plat") of the plan set entitled "The Compass School Special Exception Plat," dated June 6, 2008, revised through February 9, 2009, prepared by Paciulli Simmons and Associates (the "Plans"), and incorporated herein by reference. These conditions shall supersede previously approved special exception conditions of approval for SPEX 2005-0005 & ZMOD 2005-0007, Busy Kids Learning Center – Ashbrook. Approval of this application for Tax Map Number /62/L/1/////3/ (PIN #084-30-9250) (the "Property") shall not relieve the Property from the obligation to comply with and conform to any other Zoning Ordinance, Codified Ordinance, or applicable regulatory requirement.
2. **Enrollment** – The total maximum enrollment of the child care center shall not exceed 200 children.
3. **Play Area Capacity** – The Applicant shall not permit more students within the outdoor play area at any one time than are allowed by State standards.
4. **Play Area Amenities** – The outdoor play area shall include a minimum of three (3) benches for use by employees at the Property.
5. **Trash Removal** – The Applicant shall limit site trash removal to Monday through Friday between the hours of 8 a.m. to 10 p.m.



6. **Surface Cleaning** – The Applicant shall limit the surface cleaning (i.e. vacuuming) of the parking area to Monday through Friday between the hours of 8 a.m. to 10 p.m.
7. **Entrance Gate** – The Applicant shall install a gate at the entrance of the subject property. The design of the gate may permit folding when opening and closing the gate.
8. **Loud Speakers** – The Applicant at no time shall install or use outside loud speakers.
9. **Elevations** – The applicant shall not exceed a finished floor elevation of 272 feet above sea level.
10. **Special Events** – The Applicant shall limit special events which involve more than fifty (50) students to 2 per year (including but not limited to holiday celebrations and class celebrations) so that such events shall not exceed 4 hours in duration and such events shall only be held between the hours of 10 a.m. to 8 p.m.
11. **Low Impact Design (LID)** – The Applicant shall utilize a pervious surface to include either permeable pavers or porous concrete on a minimum of forty-four (44) of the required parking spaces, including all perimeter parking spaces.
12. **Signage** – The Applicant shall use signage that is architecturally compatible with respect to color and materials of the child care center.
13. **Directional Signage** – Prior to the issuance of the first occupancy permit, the Applicant shall post a sign near the point of the exit of the Property to Navajo Drive directing those vehicles leaving the site to turn right upon exiting. In addition, the Applicant shall post signage along Navajo Drive prohibiting the parking of vehicles visiting the daycare center along Navajo Drive.
14. **Building Elevation** – The materials, design and appearance of the child care center shall be in substantial conformance with the "Front Elevation" depicted on the Plans on Sheet 4 entitled "The Compass School Special Exception Plat" dated June 6, 2008, revised to 2/9/09, and prepared by Paciulli Simmons and Associates. Architectural drawings demonstrating conformance with this condition shall be submitted to the Department of Community Planning for review prior to the issuance of a zoning permit on the Property.
15. **Exterior Lighting** – Any exterior lighting installed on the Property shall be full cutoff and fully shielded light fixtures as defined by the Illuminating Engineering Society of North America (IESNA). Light shall be directed inward and downward toward the interior of the property, away from nearby properties. The Applicant shall power down all of their exterior lights excluding security lights during the closed hours of operation.

Note: The applicant has agreed to contribute \$.10 per square foot of development to the servicing Fire and Rescue Company. The contribution shall be divided equally for fire and rescue services. The \$.10 per square foot contribution will escalate annually based on the

Consumer Price Index (base year of 1988) in accordance with Board policy and contributions shall be made before issuance of zoning permits for phased development of the project.

## V. PROJECT REVIEW

### A. CONTEXT

On August 15, 2008, the County accepted, on behalf of Childcare Holdings of Ashburn, LLC, a request for Special Exception (SPEX) to amend SPEX 2005-0005 & ZMOD 2005-0007, Busy Kids Learning Center, Ashbrook, to revise the site layout and increase the building size from the approved 9,960 square feet to the proposed 13,168 square feet. The request also includes a Minor Special Exception to amend Section 5-609(b)(2)(b) of the Revised 1993 Zoning Ordinance, Additional Regulations for Specific Uses, to eliminate the requirement for drop-off and delivery parking spaces. Concurrently, an application for Zoning Ordinance Modification (ZMOD) has been submitted modifying Section 4-505(B)(2), *Yards. Adjacent to Agricultural and Residential Districts and Land Bays Allowing Residential Uses*, to reduce the side yard building setback from seventy-five (75) feet to twenty-nine (29) feet and the parking setback from sixty (60) feet to fifteen (15) feet and modifying Section 5-1414(B), *Buffer Yard*, to reduce the width of the twenty (20) foot Type 2 side yard buffer to a fifteen (15) foot Type 2 side yard buffer.

The site is located at the intersection of Russell Branch Parkway and Navajo Drive across from an entrance to the Ashbrook Commons Shopping Center. Currently, the site is vacant and unimproved. Vegetation is limited to an existing treeline of hardwoods and cedars located central to the property and near the eastern boundary line. A stockpile of fill is visible on the site and sediment control and erosion measures have been placed along the frontage of



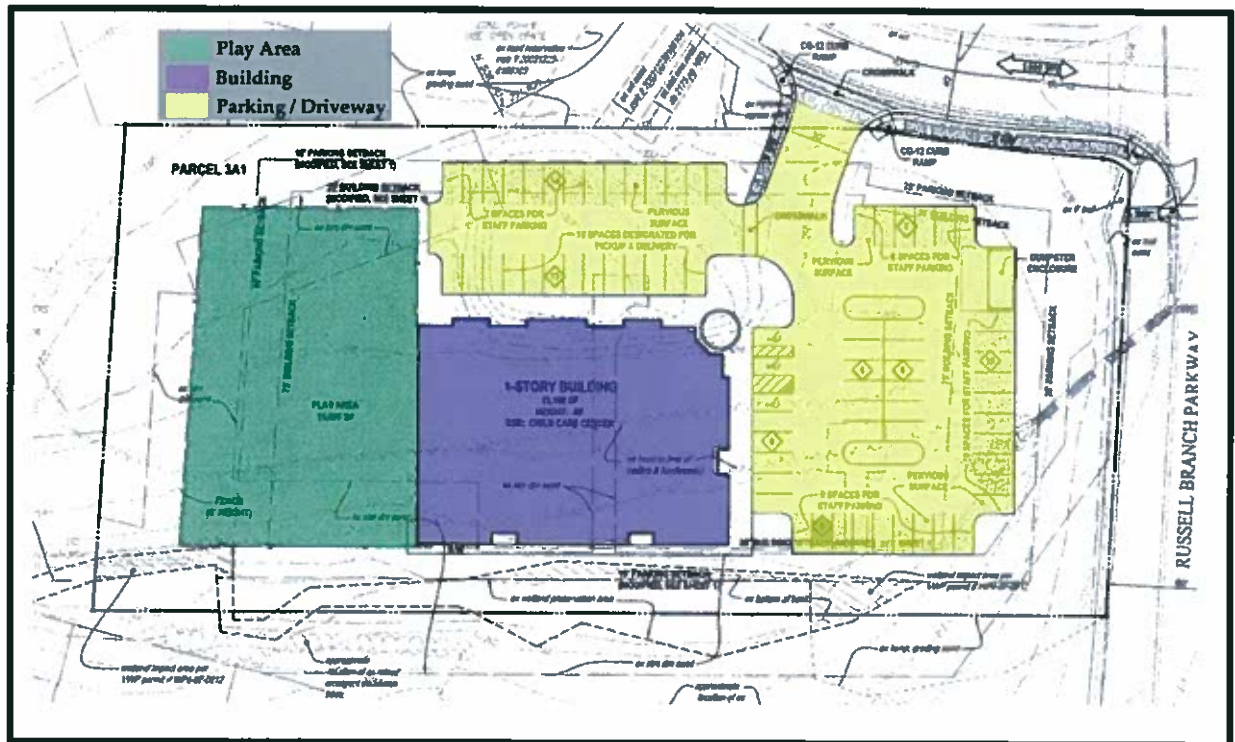
View of existing site conditions and vegetation;  
Russell Branch Parkway located in the foreground.

Navajo Drive and Russell Branch Parkway.

The property is subject to the Proffers and Concept Development Plan associated with ZMAP 1994-0012, Ashbrook, which identifies this site as one of two locations for a future day care center subject to a future special exception. SPEX 2005-0005, Busy Kids Learning Center, Ashbrook, was accepted for processing by the County on March 9, 2005. As originally proposed, the application included a 12,600 square foot building, accommodating 250 students, as well as a 1,225 square foot accessory garage. As the application was reviewed by Staff, the garage was integrated into the building, increasing

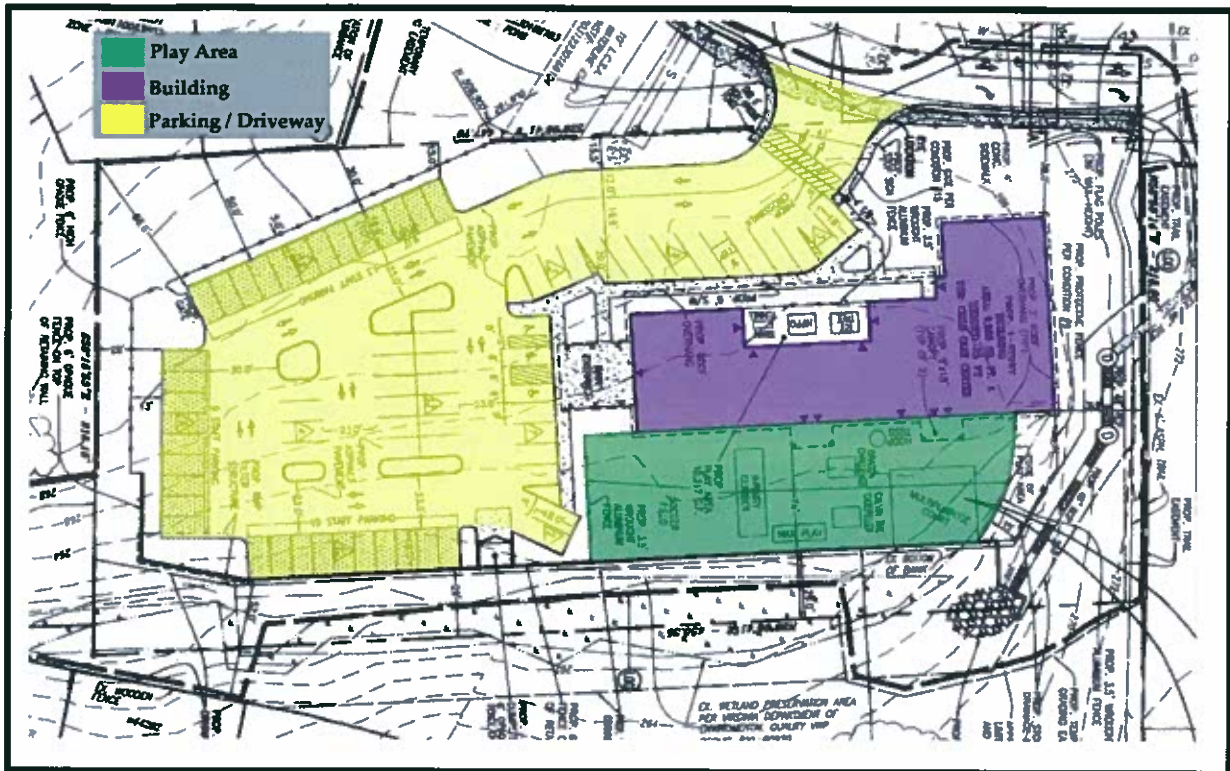
the size of the total building to 13,681 square feet. A Zoning Ordinance Modification (ZMOD 2005-0007) was included as part of the application and requested reductions in parking, required yards, among others.

In response to concerns articulated by the Planning Commission regarding compatibility, the size of the building was reduced to 10,988 square feet. The building was further reduced to 9,960 square feet in response to similar concerns by the Board of Supervisors. The maximum enrollment was limited to 200 students before being ultimately approved by the Board in March 2006. A site plan, Patriot Learning Center (STPL 2006-0065), was subsequently submitted but never approved. The application currently under consideration proposes a one-story, 13,168 square foot building.



Proposed building and parking layout; the building is noted in blue, Parking areas in yellow, and the play area in green.





Site layout approved as part of SPEX 2005-0005 & ZMOD 2005-0007, Busy Kids Learning Center, Ashbrook; the building is noted in blue, parking areas in yellow, and the play area in green.

## B. SUMMARY OF OUTSTANDING ISSUES

Outstanding issues include:

1. ***Modifications which have not been fully justified and may allow for the construction of a building much larger than what could otherwise be accommodated on the site.*** The Applicant has stated an increase in the size and layout of the building is needed to facilitate curriculum needs of the child care center. However, proposed modifications will reduce building and parking setbacks by sixty-one percent (61%) and seventy-five percent (75%) respectively, placing the proposed structure in close proximity to existing single-family residences. Modifications will further reduce the width of the proposed buffer adjacent to a proposed parking area along the western boundary line.
2. ***Compatibility to adjoining single-family residences.*** Given the extent of the modifications noted above and the resulting orientation of the building in relation to the property line, compatibility to adjacent single-family residences has not been demonstrated. The Applicant has agreed to enhance plantings on the western boundary of the site; no enhancements have been proposed on the eastern or southern boundaries where the building setback reductions are the greatest.
3. ***Impact to an existing wetland area.*** The Applicant has submitted a conceptual grading plan and has stated that impacts to the wetlands will be minimal. However, given the extent of the modifications and the resulting orientation of the



building in relation to the property line, an area of existing wetlands, noted on the Special Exception Plat as protected by a wetland preservation area, will coincide with required buffering and may be negatively impacted.

4. ***The Conditions of Approval have not been approved to legal form.*** Staff notes that at the time of publication of this report, the Applicant has not reviewed the recommended Conditions of Approval. In addition, the Conditions of Approval have not been approved to legal form by the County Attorney's Office. Revisions to the Conditions can be expected.

## **C. OVERALL ANALYSIS**

### **COMPREHENSIVE PLAN**

The site is governed under the policies of the Revised General Plan (Plan) and is located in the Ashburn Community of the Suburban Policy Area. The Planned Land Use Map (Revised General Plan, p. 7-23) designates the area as suitable for Business uses. The proposal includes three applications: 1) A Special Exception (SPEX) to amend SPEX 2005-0005 & ZMOD 2005-0007, Busy Kids Learning Center, Ashbrook, to revise the site layout and increase the building size; 2) A Minor Special Exception to eliminate the requirement for drop-off and delivery parking spaces; and 3) A Zoning Ordinance Modification (ZMOD) to reduce the side yard building setback from seventy-five (75) feet to twenty-nine (29) feet and the parking setback from sixty (60) feet to fifteen (15) feet and to reduce the width of the twenty (20) foot Type 2 side yard buffer to a fifteen (15) foot Type 2 side yard buffer.

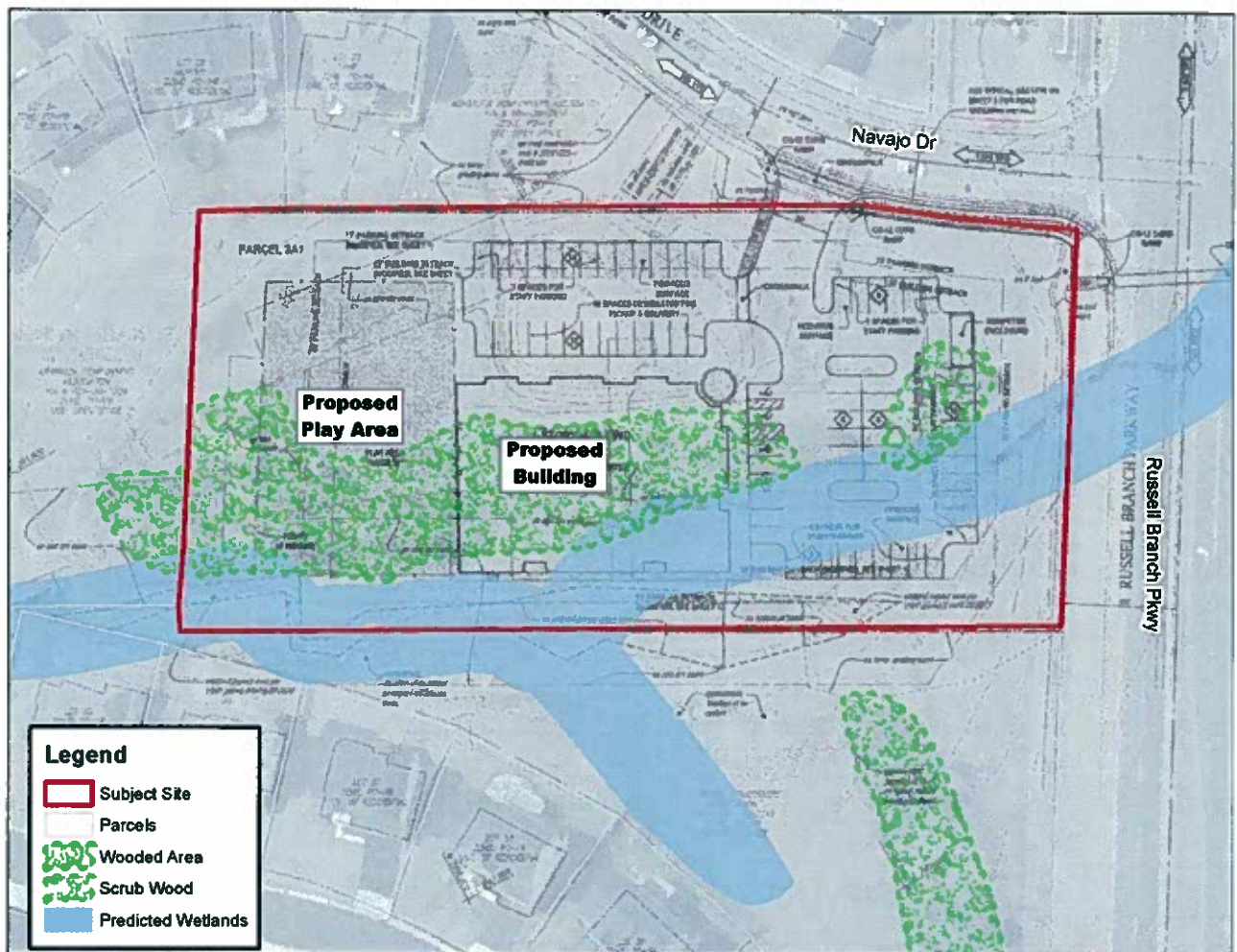
The Plan envisions Business areas as predominantly large-scale office and light-industrial communities but encourages a mix of uses to include housing and/or commercial retail and services. Commercial service and/or retail uses should be supportive in nature and are intended to provide individuals with access to services, shops, and recreation within general proximity of an employment center. The child care center defined by the Plan as a service use and is indicative of the type of commercial retail and service envisioned as part of a Business community.

Comments from the Department of Community Planning included recommendations for assurances that as the size of the building is increased, compatibility to an existing single-family neighborhood adjoining the site will be maintained. As such, staff has requested a commitment to design features of the building to include variation of materials and building articulation, architectural details, usable outdoor spaces, and distinctive roof forms. Staff has also requested enhancements to the proposed landscaping to minimize the impacts of the reduced building and parking setbacks. The Applicant has responded by including a front building elevation depicting a variable building facade utilizing multiple materials and a pitched roof. Staff has included a condition of approval which would require substantial conformance to this elevation. Conversely, a "conceptual landscaping plan" has been included which shows a Type 2 Buffer along the south and east boundaries and a Type 3 Buffer along the north and west boundaries. Aside from the western boundary line which would otherwise require a Type 2 Buffer, no additional enhancements to the landscaping have been proposed. At a minimum, staff recommends enhancements to the proposed

landscaping but must note that given the extent of the modification requests, additional plantings may not be adequate to ensure compatibility, given the placement of the building in relation to the property line.

### **Wetland Preservation Area**

Existing wetlands are located both on and off-site along the property's eastern boundary. These wetlands have been formed, in part, by a drainage outlet running underneath Russell Branch Parkway and which discharges near the site's northern boundary. The majority of the wetlands located on-site will be impacted by the proposed building and associated parking area; however an existing wetland preservation area, measuring approximately fifteen (15) feet in width, is depicted on the subject site and follows the eastern boundary. Modifications to both the building and parking setback will place the building approximately fifteen (15) feet from the wetland preservation area. The placement of the building will necessitate a retaining wall, depicted on a conceptual grading plan, approximately twenty-five (25) feet from the property line, essentially hard-lining the wetland preservation area on one side. The required Type 2 Buffer will be located beyond the retaining wall and will coincide with the wetland preservation area. Specific implications of the modifications are discussed further in Section V.D. of this report.



Environmental features impacted by the proposed building and parking layout.  
Information obtained from Loudoun County Department of Building and Development.

## ZONING

The property under consideration is a 2.19 acre tract, identified as Loudoun County Tax Map 62((L/1)), Parcel 3. The tract is currently zoned PD-IP (Planned Development – Industrial Park) under the Revised 1993 Zoning Ordinance and is subject to the Proffers and Concept Development Plan related to ZMAP 1994-0012, Ashbrook. The use, child care center, was established pursuant to SPEX 2005-0005 & ZMOD 2005-0007, Busy Kids Learning Center, Ashbrook, approved by the Board of Supervisors in March 2006.

### **Minor Special Exception (SPEX 2008-0067) – Elimination of Drop-Off / Delivery Spaces**

Pursuant to Sections 5-1102 and 5-609(B)(2)(b) of the Revised 1993 Zoning Ordinance, a total of eighty two (82) parking spaces are required for this use. Parking requirements for a child care center are calculated based upon the number of children accommodated by the facility and the number of employees. Section 5-1102 requires seventy two (72) parking spaces at a ratio of 0.20 spaces per licensed capacity and one space per employee ((0.20 spaces X 200 children) + 32 employees = 72). Section 5-609(B)(2)(b) states a designated pickup and delivery zone, providing at a minimum one (1) parking space per twenty (20) children, shall be provided, requiring an additional ten (10) spaces. The minor special exception proposes to eliminate the requirement for the ten (10) additional drop-off and delivery spaces.

The Revised 1993 Zoning Ordinance allows for the modification of Section 5-609, Additional Regulations for Specific Uses, by Minor Special Exception it can be demonstrated that such will achieve an innovative design, improve upon the existing regulations, or otherwise exceed the public purpose. A request for Minor Special Exception is considered by the Board of Supervisors but a discussion in this report has been included to provide context.

As justification for the elimination of the spaces, the Applicant states that the ten (10) drop-off and delivery spaces are not needed and has submitted a “Parking Reduction Study” to substantiate this claim. This study uses an existing Compass School in Manassas with a higher maximum enrollment to demonstrate that the additional spaces in this case are not needed. The Applicant further states the additional pick-up and delivery spaces were not required as part of the approval of the existing special exception, and a reduction in parking spaces will result in a corresponding decrease in impervious surface, allowing for greater preservation of green space.

In concept, staff can support the reduction of parking spaces if it can be demonstrated that the needs of the use can be accommodated by the remaining spaces provided. Staff acknowledges that a modification was included as part of the Busy Kids Learning Center application to reduce the required parking from the required eighty (80) spaces to sixty five (65) spaces, and Staff appreciates any effort to reduce impervious surface. In this instance, however, any reduction in impervious surface achieved by a reduction in the number of parking spaces will be offset by a corresponding increase in the size of the building. Though this increase is not directly necessitating the need for additional spaces, staff questions whether drop-off and delivery spaces could otherwise be accommodated and, consequently, whether the modification would be necessary if the size of the building were reduced.



## **EMERGENCY SERVICES**

The Ashburn Volunteer Fire and Rescue Company will provide fire and rescue services to this site. County policy anticipates a contribution of \$.10 per square foot of development. Based on the square-footage of the proposed special exception, the County would anticipate a contribution of \$1,316.80 which shall be adjusted annually from the base year of 1988 and change effective each January 1<sup>st</sup> thereafter. The applicant has provided a letter agreeing to contribute \$6,405.00 for the servicing fire and rescue company. The contribution will be provided at zoning permit issuance and is consistent with Board policy. There are no outstanding staff issues.

## **TRANSPORTATION**

The subject property is located at the intersection of Russell Branch Parkway and Navajo Drive across from an entrance to the Ashbrook Commons Shopping Center. Russell Branch Parkway has been constructed as a four-lane median divided roadway in a 120-foot right-of-way in the vicinity of the subject site. Russell Branch Parkway currently terminates at Ashburn Village Boulevard; a roadway segment, proffered as part of the One Loudoun application, is currently under construction and will extend the route to Loudoun County Parkway. Navajo Drive provides local access only and has been built to its ultimate configuration in a fifty (50) foot right-of-way with stop control at Russell Branch Parkway. Ingress and egress to the subject property is via Navajo Drive.

The proposed use will result in 1,026 daily weekday vehicle trips including 121 vehicle trips in the AM peak hour and 70 vehicle trips in the PM peak hour. Comments from the Office of Transportation Services included ensuring the site entrance from Navajo Drive is the same as the previously approved Special Exception, an issue of contention during the consideration of the Busy Kids Learning Center application. Comments from the Virginia Department of Transportation stated the need for frontage improvements, including widening Navajo Drive to forty-feet (40'), provisions for a five-foot (5') sidewalk, and curb ramps at the public sidewalk, from the site entrance to Russell Branch Parkway. All of these comments have been addressed by the Applicant, and no issues remain outstanding.

## **D. ZONING ORDINANCE MODIFICATIONS**

***Modification #1: Section 4-505(B)(2). Yards. Adjacent to Agricultural and Residential Districts and Land Bays Allowing Residential Uses.***

### ***4-505 Lot Requirements***

#### ***(B) Yards.***

##### ***(2) Adjacent to Agricultural and Residential Districts and Land Bays Allowing Residential Uses.***

*No building, outdoor storage, areas for collection of refuse, or loading area shall be permitted closer than seventy five (75) feet to any agricultural district, any existing or zoned residential district, or land bay allowing residential uses. No parking shall be permitted closer than sixty (60) feet to any such districts and uses. No parking, outdoor storage, areas for collection of refuse, or loading shall be permitted in area*



*between buildings and such agricultural districts, existing or planned residential districts, or land bays allowing residential uses where such uses are visible from the said agricultural and residential areas. When a PD-IP lot, parcel and/or landbay is developed adjacent to an agricultural district, an existing zoned residential district, or land bay allowing residential uses, which was zoned for agricultural or residential uses subsequent to the adoption of this ordinance and subsequent zoning of the subject property as PD-IP, the setback required in (B)(3)...shall apply.*

**Proposed Modification Request:** Modification of the side yard building setback from seventy five (75) feet to twenty nine (29) feet and modification of the parking setback from sixty (60) feet to fifteen (15) feet.

**Justification:** *Proposed side yard building setback:* The Applicant is requesting a zoning modification to allow the reduction of the side yard building setback between the proposed childcare facility building and the eastern Property boundary (as shown on the Special Exception Plat). The proposed modification will allow the Applicant to locate parking spaces closer to the Property's entrance and away from nearby residential units. Due to the shape of the Property, if the side yard building setback was to be respected, parking spaces would need to be located along the western boundary of the Property, in close proximity to residential lots. In meeting with residents prior to and post the submission of this special exception application, it has been clear that residents do not want parking spaces close to their homes. Furthermore, the play area required for the proposed use would have to wrap around the southern and eastern edges of the childcare facility in an 'L' shape. Such a layout would make the play area more difficult to monitor by school staff, less secure and less usable than the proposed layout.

In requesting this zoning modification, the Applicant notes that the proposed childcare facility is not a typical use anticipated in the PD-IP zoning district and that the required setback may have been designed with other, more industrial uses in mind. Further, the Ashbrook Homeowners Association open space bounds the Property to the east and provides an additional setback between the proposed building and neighboring residential properties, thereby minimizing the impact of this proposed modification.

The Applicant does not anticipate that the proposed building yard reduction would have a negative impact on the screening of the childcare facility from surrounding uses. The Applicant is proposing a Type 2 Buffer planting along the eastern edge of the Property, which will supplement existing vegetation on open space owned by the Ashbrook HOA located between the Property and surrounding residential parcels. Notwithstanding the aforementioned, the Applicant believes that the proposed childcare facility is compatible with the surrounding residential uses. Furthermore, it is important to note that the proposed zoning modification is only necessary for the childcare facility building, which represents a small portion of the eastern edge of the Property.

The Applicant does not anticipate any noise impacts from the proposed building. Furthermore, the proposed use is considered to be compatible with surrounding residential uses: the proposed childcare facility is a by-right use in the PD-H district, which is the zoning district covering the surrounding residential portions of Navajo Drive and Mohave Drive. Furthermore, should the zoning modification be granted, the proposed building would still be approximately 100 feet from the closest home and 75 feet from the boundary of the closest residential property. The potential for an impact from noise to the surrounding residential uses would not be increased by this proposed zoning modification.

*Proposed parking setback:* The Applicant is requesting a reduction in the parking setback on a small portion of the western Property boundary (as shown on the special exception plat).

In requesting the modification of the parking setback, the Applicant is seeking to provide parking spaces close to the facility's entrance and Russell Branch Parkway and away from the proposed plan area and adjacent residential units. Further, the western edge of the Property in the location of the proposed modification is adjacent to open space owned by the Ashbrook HOA. This open space provides an additional setback and buffer between the proposed parking spaces and surrounding residential properties.

To help mitigate any visual impacts from the reduced parking setback, the Applicant is proposing to increase buffer planting along this Property boundary from the Type 2 to the Type 3 buffer plantings. The Applicant does not anticipate any noise impacts from the proposed parking setback reduction. As discussed above, the western edge of the Property is bounded by an area of open space owned by the Ashbrook HOA. As proposed, the parking spaces would a minimum of 40 feet to the closest residential lot and 70 feet to the closest residential unit.

**Staff Review and Recommendation:** Staff cannot support this modification. Staff acknowledges that a modification (ZMOD 2005-0007) to reduce the parking and building setback was approved as part of the Busy Kids Learning Center application. As this application was vetted by the Planning Commission and Board of Supervisors, the scope of the modifications were reduced such that the majority of the building, notably that portion adjacent to existing or proposed residences, could be accommodated within the seventy-five (75) foot building setback. In like manner, the scope of the parking modification was reduced to fifteen (15) feet at its narrowest point. The parking lot layout was revised to allow a greater setback of the parking areas from proposed or existing residences; a parking setback of thirty (30) feet from Lot 28, fifty (50) feet from Lot 29, and fifty-two (52) feet from Lot 36 was approved. In addition, the Applicant committed to construct a six (6) foot high fence, in addition to enhanced landscaping, around all parking areas to provide a buffer to nearby residences.

In contrast, the current application proposes to relocate the parking areas from the rear of the lot to an area adjacent to Russell Branch Parkway and Navajo Drive; a play area will now be located adjacent to the afore-mentioned residences. A fence will surround the play area and will maintain a uniform distance of approximately thirty-six (36) feet from Lots 28 and 29. A building setback of seventy-five (75) feet will be maintained along the north, south, and west

boundaries but a reduction to twenty nine (29) feet is proposed along the east boundary line. As depicted on a conceptual grading plan, this orientation will require a retaining wall approximately twenty-five (25) feet from the property line.

The proposed modifications represent a sixty-one percent (61%) reduction in the building setback and a seventy-five percent (75%) reduction in the parking setback. The Applicant justifies the proposed reduction in the building setback by stating a Type 2 Buffer will be planted along the eastern boundary line. The Applicant further states that existing vegetation located on property owned and controlled by the Ashbrook HOA will augment this buffer and provide further screening from the adjacent residential community. Staff notes that this shared boundary between the HOA and the subject site contains an area of existing wetlands and also serves as a drainage easement for commercial properties located across Russell Branch Parkway. The reduction in building setback will place the proposed building in closer proximity to both. The Special Exception Plat depicts an existing wetland preservation area but this area will coincide and potentially conflict with both the area needed to accommodate the Type 2 Buffer and the drainage easement. Further, the retaining wall will essentially hard line the wetland preservation area on one side and may result in increased water flow through the drainage easement and along the rear yard lines of Lots 35, 36, 37, and 38.

This proposed modification will result in a building substantially larger than what could otherwise be accommodated on this site. The intent of a modification is to achieve an innovative design, improve upon the existing regulations, or otherwise exceed the public purpose. The intent of a modification is not to achieve the maximum density on a site, as seems to be the case here.

***Modification #2: Section 5-1414(B). Buffer Yard.***

***Type 2 Side/Rear Buffer Width. 20' minimum width; 30' maximum width.***

**Proposed Modification Request:** Modification of a portion of the 20 foot Type 2 side yard buffer to a 15 foot Type 2 side yard buffer.

**Justification:** The modification is requested on the western boundary of the Property, adjacent to fourteen proposed parking spaces. The modification will allow the Applicant to provide parking spaces close to the entrance to the Property and away from the proposed play area and surrounding residential uses. The proposed reduced buffer yard will be supplemented by Ashbrook HOA owned open space on the western edge of the Property. As shown on the special exception plat, the portion of the Property the subject of this modification request does not adjoin residential properties and would not detrimentally affect any surrounding property owners.

The Applicant is not seeking to reduce the planting required in this buffer yard, just its width. Furthermore, to provide additional justification for this modification request, the Applicant has proposed to increase buffer planting required along the western edge of the Property from a Type 2 to Type 3 plantings. As shown on Sheet 3 of the Special Exception Plat, the Applicant

believes this additional planting will assist in the screening of the proposed use from surrounding residential properties.

**Staff Review and Recommendation:** Staff cannot support this modification. Given the extent of the reductions in building and parking setback described above, staff cannot support any reduction in buffer yards. Though the Applicant has indicated intent to enhance the Type 2 Buffer to include the plantings of a Type 3 Buffer, no commitments to such have been made. The Applicant has also stated that open space owned by the Ashbrook HOA adjacent to the area proposed for a reduction in buffer width will augment the Type 3 plantings and provide further screening. However, unlike the HOA property located along the eastern boundary line, this area is devoid of vegetation and appears that fill stockpiled on the subject site is also located on the HOA parcel.

Staff is generally supportive of revisions to the site layout which would relocate parking areas away from nearby single-family homes. However, the fourteen parking spaces to which this modification will apply are located closer to single-family residences than any other at approximately forty-two (42) feet from Lot 28, revised upward from the thirty (30) feet in the Busy Kids Learning Center application. If the underlying intent of the modification is to improve upon the existing regulations, achieve an innovative design, or otherwise exceed the public purpose and not to increase the size of the building, proposing a modification to reduce buffering adjacent to parking spaces in close proximity to a residential community seems counter intuitive.

#### **E. ZONING ORDINANCE CRITERIA FOR APPROVAL**

*Section 6-1310 of the Loudoun County Zoning Ordinance states "In considering a Special Exception application, the following factors shall be given reasonable consideration. The applicant shall address all the following in its statement of justification or Special Exception plat unless not applicable, in addition to any other standards imposed by this Ordinance":*

*(A) Whether the proposed Special Exception is consistent with the Comprehensive Plan.*

Per the Planned Land Use Map of the Revised General Plan, this area is suitable for Business uses. The child care center is considered a service use. Service uses are anticipated within the land use mix for a Business community and will compliment existing retail uses located in the Ashbrook Common Shopping Center.

*(B) Whether the proposed Special Exception will adequately provide for safety from fire hazards and have effective measures of fire control.*

The proposed use will be constructed to comply with all applicable fire safety and building requirements.

*(C) Whether the level and impact of any noise emanating from the site, including that generated by the proposed use, negatively impacts the uses in the immediate area.*

Though it is not anticipated that the proposed building will generate noise, an associated play area has been situated immediately adjacent to existing single-family residences. Lots 28



and 29 will realize the greatest impact where the distance to the property line is a uniform distance of approximately thirty-six (36) feet. The Applicant has stated that a six-foot (6') high opaque fence will surround the play area and has stated that enhanced landscaping will be included along the perimeter of the site. However, no commitments to landscaping above that anticipated by the Ordinance have been made along the southern and eastern boundary lines.

*(D) Whether the glare or light that may be generated by the proposed use negatively impacts uses in the immediate area.*

To limit the impact on adjacent single-family residences, a condition of approval has been included stating that all lighting will be fully cut off and shielded and directed away from nearby properties. Further, the revised site layout included as part of the Special Exception proposed to relocate the parking areas and drive aisles to the northern portion of the lot, adjacent to Russell Branch Parkway, minimizes the impact on the residential community. Conversely, the Busy Kids Learning Center application proposed parking areas immediately adjacent to single-family homes.

*(E) Whether the proposed use is compatible with other existing or proposed uses in the neighborhood, and adjacent parcels.*

Though the child care center use is compatible with a residential neighborhood, the proposed mass and orientation of the proposed building is not. Modifications to reduce both the parking and building setback place the building closer to existing single-family homes, and few enhancements to landscaping are proposed which would offset such.

*(F) Whether sufficient existing or proposed landscaping, screening and buffering on the site and in the neighborhood to adequately screen surrounding uses.*

The application proposes a series of modifications that will substantially reduce both parking and building setbacks, allowing for a much larger building than could otherwise be accommodated on the site. A second modification proposes a reduction in the width of the buffer yard along a portion of the western boundary adjacent to fourteen (14) parking spaces. The Applicant has stated as justification for these modifications that enhanced buffering and plantings will be provided; however no commitments to such have been made. Consequently, the application does not propose adequate landscaping, screening or buffering to adequately screen the use from the surrounding residential community.

*(G) Whether the proposed Special Exception will result in the preservation of any topographic or physical, natural, scenic, archaeological, or historic feature of significant importance.*

The Special Exception uses do not fall within any known area that has significant archeological or historical significance.

*(H) Whether the proposed Special Exception will damage existing animal habitat, vegetation, water quality (including groundwater) or air quality.*

Existing wetlands are currently located both on-site and on a piece of property along the eastern boundary line owned by the Ashbrook HOA. Though the Applicant has received approval to mitigate the on-site wetlands, a wetland preservation area has been delineated on the Special Exception Plat. A modification to reduce the building setbacks to twenty-nine (29) feet will locate the structure in close proximity to the wetland preservation area. Required buffer yards and a existing drainage easement will coincide and conflict with this area.

*(I) Whether the proposed Special Exception at the specified location will contribute to or promote the welfare or convenience of the public.*

The proposed Special Exception will allow for a child care center, a service use, to be located within close proximity to residential neighborhoods and employment centers. As such, the application will contribute to or promote the welfare and convenience of the public.

*(J) Whether the traffic expected to be generated by the proposed use will be adequately and safely served by roads, pedestrian connections and other transportation services.*

The site is served by Russell Branch Parkway and Navajo Drive, which provides direct access. Proximate intersections operate at acceptable Levels of Service (LOS), and no additional impacts are expected to the regional roadway network above that expected with the current approval of the Busy Kids Learning Center application.

*(K) Whether, in the case of existing structures proposed to be converted to uses requiring a Special Exception, the structures meet all code requirements of Loudoun County.*

The proposed site is undeveloped, and as such, this provision is not applicable.

*(L) Whether the proposed Special Exception will be served adequately by essential public facilities and services.*

All public facilities and utilities have been extended, and this site will be served by public water and sewer.

*(M) The effect of the proposed Special Exception on groundwater supply.*

This site will be served by all utilities and will include stormwater management facilities. No effect on the groundwater supply can be anticipated.

*(N) Whether the proposed use will affect the structural capacity of the soils.*

Given the location of existing wetland both on-site and adjacent to the proposed structure, impacts to the structural capacity of the soils can be expected.

*(O) Whether the proposed use will negatively impact orderly and safe road development and transportation.*

The site is served by Russell Branch Parkway which currently operates at an acceptable Level of Service (LOS) at all proximate intersections. The use will access via Navajo Drive which also operates at an acceptable LOS.

*(P) Whether the proposed Special Exception use will provide desirable employment and enlarge the tax base by encouraging economic development activities consistent with the Comprehensive Plan.*

The proposed Special Exception will provide desirable employment opportunities and will generate additional tax base. It will provide a service that will compliment office and retail users located in the Ashbrook community and in close proximity to the subject site.

*(Q) Whether the proposed Special Exception considers the needs of agriculture, industry, and businesses in future growth.*

The proposed Special Exception will provide a service that will compliment office and retail users located in the Ashbrook community and in close proximity to the subject site.

*(R) Whether adequate on and off-site infrastructure is available.*

Adequate infrastructure (water and sewer) is available and accessible to support the proposed use.

*(S) Any anticipated odors which may be generated by the uses on site, and which may negatively impact adjacent uses.*

There are no odors anticipated to be generated by the site.

*(T) Whether the proposed Special Exception uses sufficient measures to mitigate the impact of construction traffic on existing neighborhoods and school areas.*

Primary access to this site is via Navajo Drive, a local suburban street servicing an existing single-family neighborhood. As such, conditions of approval should be considered which would limit the impact of construction traffic. Specific methods of mitigation of construction traffic have not been provided by the Applicant.

<b>VI. ATTACHMENTS</b>	<b>PAGE NUMBER</b>
<b>1. Review Agency Comments</b>	
a. Planning Department, Community Planning	<b>A-1</b>
b. Building and Development, Zoning Administration	<b>A-15</b>
c. Building and Development, ERT	<b>A-21</b>
d. Office of Transportation Services (OTS)	<b>A-23</b>
e. Virginia Department of Transportation (VDOT)	<b>A-31</b>
f. Fire, Rescue, & Emergency Management	<b>A-35</b>
g. Loudoun Water (formerly LCSA)	<b>A-39</b>
<b>2. Disclosure of Real Parties in Interest</b>	<b>A-41</b>
<b>3. Applicant's Statement of Justification</b>	<b>A-59</b>
<b>4. Applicant's Response to Referral Agency Comments</b>	<b>A-71</b>
<b>5. Special Exception Plat; dated 6/6/08; revised 2/9/09</b>	<b>Attached</b>

**NOTE:** Attachments are available electronically, and may be viewed at the Planning Department Front Counter or in the Building & Development File Room.